

THIRD DIVISION

[G.R. NO. 169453, December 06, 2006]

CAPITOL STEEL CORPORATION, PETITIONER, VS. PHIVIDEC INDUSTRIAL AUTHORITY, RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

Capitol Steel Corporation (Capitol Steel) challenges the Court of Appeals Decision^[1] of February 7, 2005 in CA-G.R. SP No. 84067 as well as its Resolution^[2] dated August 24, 2005 ordering the Presiding Judge of Branch 20, Regional Trial Court (RTC) of Misamis Oriental to issue a writ of possession in favor of Phividec Industrial Authority (PHIVIDEC).

Petitioner, Capitol Steel, is a domestic corporation which owns 65 parcels of land^[3] with a total land area of 337,733 square meters (the properties) located in the barrios of Sugbongcogon and Casinglot, Municipality of Tagoloan, Province of Misamis Oriental.

Respondent, PHIVIDEC, is a government-owned and controlled corporation organized and existing under Presidential Decree No. 538,^[4] as amended, which is vested with governmental and proprietary functions^[5] including the power of eminent domain for the purpose of acquiring rights of way or any property for the establishment or expansion of the Phividec Industrial Areas.^[6]

The properties of Capitol Steel were identified as the most ideal site for the Mindanao International Container Terminal Project (MICTP), a PHIVIDEC project which involves the phased production of an 800-meter berth and the acquisition of port equipment^[7] to handle the volume of seaborne break-bulk and container traffic in Mindanao.^[8]

On August 24, 1999, PHIVIDEC filed an expropriation case before the RTC of Misamis Oriental,^[9] docketed as **Civil Case No. 99-477**, and raffled to Branch 38 thereof.

On September 1, 1999, Branch 38 of the Misamis Oriental RTC issued a writ of possession in favor of PHIVIDEC.^[10] Due, however, to the unauthorized engagement by PHIVIDEC of the legal services of a private lawyer, the expropriation case was dismissed, without prejudice to the filing of a similar petition through a proper legal officer or counsel.^[11]

In the meantime, Capitol Steel requested the Technical Committee on Real Property Valuation (TCRPV) of the Bureau of Internal Revenue (BIR), by letter of March 27,

2001, for a revaluation of its properties. The TCRPV thereafter issued Resolution No. 36-2001^[12] (TCRPV Resolution) dated December 11, 2001 fixing the "reasonable and realistic zonal valuation" of the properties at P700 per square meter.

This Court in *"Phividec Industrial Authority v. Capitol Steel Corporation,"*^[13] annulled the entire proceedings in Civil Case No. 99-477, by Decision of October 23, 2003.

By letter^[14] of November 21, 2003, PHIVIDEC informed Capitol Steel that it would file anew an expropriation case and that it had deposited the amount of P116,563,500 in the name of Capitol Steel, P51,818,641 of which was deposited at the Landbank of the Philippines (Landbank) and P64,744,859 at the Development Bank of the Philippines (DBP). PHIVIDEC further informed Capitol Steel that the total amount deposited represents the zonal value of the properties, and may be withdrawn at any time.

Subsequently, PHIVIDEC, represented by the Government Corporate Counsel, re-filed on November 24, 2003 an expropriation case, docketed as **Civil Case No. 2003-346**, and raffled to Branch 20 of RTC of Misamis Oriental.

And on December 8, 2003, PHIVIDEC filed an Urgent Motion for the Issuance of a Writ of Possession^[15] to which it attached a Certificate of Availability of Funds,^[16] and Certifications from the Landbank^[17] and the DBP^[18] that it deposited the total amount of P116,563,500 required under Republic Act No. 8974 (R.A. 8974), "AN ACT TO FACILITATE THE ACQUISITION OF RIGHT-OF-WAY, SITE OR LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS AND FOR OTHER PURPOSES."

The total amount deposited represents one hundred percent (100%) of the value of the properties based on the schedule of zonal valuation for real properties under Department Order No. 40-97^[19] (D.O. 40-97) fixing the zonal valuation of the properties at Sugbongcogon and Casinglot at P300 and P500 per square meter, respectively.

Capitol Steel opposed the application of D.O. 40-97, claiming instead that under the TCRPV Resolution, the properties have been revalued at P700 per square meter.^[20]

By Order^[21] of February 3, 2004, the trial court denied PHIVIDEC's Motion for the Issuance of a Writ of Possession, noting that the amount deposited was "seemingly inadequate"^[22] and was made simply out of PHIVIDEC's "interpretation of the prevailing zonal valuation and was not mutually agreed"^[23] upon.

In view of the conflicting zonal valuations, the trial court found it necessary to first make a "judicial interpretation" to determine the prevailing market value of the properties on the basis of the zonal valuation through a full-blown trial where the parties would be afforded the opportunity to present their respective evidence.^[24]

PHIVIDEC thus presented the Assistant Revenue District Officer of Revenue District 98 of the BIR in Cagayan de Oro City, Bernadette H. Honculada (Bernadette). Bernadette testified that barangays Sugbongcogon and Casinglot in Tagoloan are

within the jurisdiction of Revenue District 98^[25] and that under D.O. 40-97, the zonal valuations of the properties are P300 and P500 per square meter, respectively.^[26]

Bernadette further testified that her office continues to use the zonal valuations provided in D.O. No. 40-97 in computing internal revenue taxes.^[27]

For its part, Capitol Steel presented a representative of the Philippine Association of Realty Appraisers to the TCRPV, Victor T. Salinas (Salinas), who testified that TCRPV is authorized under Revenue Delegation of Authority Order No. 4-2001 to conduct reappraisals of the zonal valuation of properties on a "case to case level"^[28] upon the request of any taxpayer.^[29]

Salinas further testified that he was sent together with a representative from the Bureau of Local Government Finance to inspect the properties, and to prepare a report and submit the same to the TCRPV for deliberation;^[30] that after deliberation, the TCRPV issued a resolution fixing the zonal valuation of the properties at P700 per square meter, which was thereafter approved by the Chairman of the TCRPV, Nora Tamayo, who then transmitted the resolution to the parties concerned – the Revenue District Officer and the "taxpayer who requested for the adjustment" or Capitol Steel.^[31]

Salinas furthermore testified that the valuation was arrived at after comparing the "values of same features of some of the lands in the area and also the neighboring cities like Cagayan de Oro City" and that TCRPV "ma[d]e use of the report[s] of the two independent appraisers" and also "the valuation [of] the Assessor's Office."^[32]

By Order^[33] of April 15, 2004, the RTC denied PHIVIDEDEC's motion for reconsideration^[34] of its February 3, 2004 Order denying its Motion for the Issuance of a Writ of Possession, it sustaining the TCRPV's fair market valuation of the properties at P700 per square meter, and accordingly ordering PHIVIDEDEC to "immediately deposit the total amount" to call for the issuance of the writ.

It is the finding of this Court that indubitably the Technical Committee on Real Property Valuation (TCRPV), is the body tasked to fix the valuation of the property sought to be appropriated and, hence, there is no sustainable evidence to merit the reconsideration of the Court's order dated February 4, 2004, the motion thereof is hereby denied and taking into account the preponderance of evidence proffered by defendant in arriving at the prevailing zonal valuation based in the evidence adduced, this Court hereby sustains the fair market value of defendant's property at Seven hundred (P700.00) Pesos per square meter, thereby plaintiff is ordered to immediately deposit the total amount in defendant's name for this Court to issue the writ of possession as mandated by Republic Act 8974.^[35]

Claiming that the RTC acted without or in excess of jurisdiction and with grave abuse of discretion in issuing its Orders dated February 3, 2004 and April 24, 2004, PHIVIDEDEC filed before the appellate court a petition for certiorari with a prayer for the issuance of a writ of preliminary mandatory injunction.^[36]

The appellate court, by Decision^[37] of February 7, 2005, holding that the zonal valuation established under D.O. 40-97 should be the basis in computing the provisional value of the properties, and that the valuation made by the TCRPV was neither binding nor effective for failure to comply with the guidelines relative to the establishment of zonal values of real properties under Revenue Memorandum Order No. 56-89,^[38] as amended by Revenue Memorandum Order No. 56-94,^[39] granted PHIVIDEDEC's petition and accordingly directed the RTC to issue a writ of possession in favor of PHIVIDEDEC.

Capitol Steel filed a motion for reconsideration of the appellate court's February 7, 2005 decision, claiming that Revenue Memorandum Order No. 56-89, as amended by Revenue Memorandum Order No. 56-94, applies only when all the properties in a province or a city are revalued, not when the properties of a single taxpayer^[40] are revalued.

Acting on Capitol Steel's motion for reconsideration,^[41] the appellate court conducted a hearing following which it ordered the parties to submit their respective memoranda and position papers.

In the meantime, the RTC, by Order^[42] of June 6, 2005, granted the supplemental motion for execution of Capitol Steel and allowed it to withdraw from the Landbank and the DBP the total amount of P116,563,500.

The appellate court eventually denied Capitol Steel's motion for reconsideration of its Decision of February 7, 2005, by Resolution^[43] of August 24, 2005.

Capitol Steel (petitioner) now comes before this Court on a petition for review, positing the following arguments:

1. THE PETITION FOR CERTIORARI [BEFORE THE COURT OF APPEALS] SHOULD BE DISMISSED OUTRIGHT BECAUSE IT IS FATALLY DEFECTIVE FOR SUPPRESSION OF NECESSARY AND RELEVANT DOCUMENTS.
2. THE ORDERS OF FEBRUARY 3, 2004 AND APRIL 15, 2004 OF THE REGIONAL TRIAL COURT OF MISAMIS ORIENTAL CANNOT BE THE SUBJECT OF A PETITION FOR CERTIORARI.
3. THE REGIONAL TRIAL COURT OF MISAMIS ORIENTAL CORRECTLY USED THE ZONAL VALUATION OF THE PROPERTIES SOUGHT TO BE EXPROPRIATED MADE IN 2001 AS BASIS FOR THE ISSUANCE OF A WRIT OF POSSESSION.^[44] (Underscoring supplied)

Respondent's failure to attach to its petition before the appellate court these documents, to wit: the Urgent Motion for the Issuance of the Writ of Possession, the Opposition thereto, the Reply, the Rejoinder, the transcript of the testimony of Salinas and the documents-exhibits of petitioner did not suffice to merit the dismissal of the petition.

As the appellate court found, respondent's omission did not detract from the

substantial completeness of its petition. Neither, held the appellate court, did it deprive its authority to hear and decide the petition.

Additionally, petitioner failed to show that it was prejudiced in any way by respondent's failure to append the said documents.

Petitioner contends that the trial court's determination of the provisional value of the properties, having been arrived at after a hearing and evaluation of the parties' evidence, cannot, being factual, be assailed in a petition for certiorari before the appellate court.^[45]

Petitioner's contention fails.

While the correctness of the RTC's determination of the zonal valuation was assailed by respondent before the appellate court, the same was merely appurtenant to the principal issue of whether the RTC has the authority, for purposes of denying or granting a writ of possession, to vary the zonal valuation of the properties as established by the BIR^[46] under D.O. 40-97.

On the main issue raised – whether the appellate court erred in ordering the RTC to issue a writ of possession in favor of respondent:

Significantly, after a writ of possession was issued in favor of respondent on September 1, 1999 in the first expropriation case-Civil Case No. 99-477, respondent commenced the construction of infrastructure buildings and container port terminals. Possession of the properties has since remained with respondent, with the MICTP now complete and fully operational.^[47]

When the second expropriation case was re-filed, R.A. 8974, which provides for substantive requirements before a writ of possession is issued, was already in force and in effect.

SECTION 4. Guidelines for Expropriation Proceedings. – Whenever it is necessary to acquire real property for the right-of-way, site or location for any national government infrastructure project through expropriation, the appropriate implementing agency shall initiate the expropriation proceedings before the proper court under the following guidelines:

(a) Upon the filing of the complaint, and after due notice to the defendant, the implementing agency shall immediately **pay the owner of the property the amount equivalent to the sum of one hundred percent (100%) of the value of the property based on the current relevant zonal valuation of the Bureau of Internal Revenue (BIR);** and (2) the value of the improvements and/or structures as determined under Section 7 hereof;

(b) In provinces, cities, municipalities and other areas where there is no zonal valuation, the BIR is hereby mandated within the period of sixty (60) days from the date of filing of the expropriation case, to come up with a zonal valuation for said area; and